

IN THE MICHIGAN COURT OF APPEALS
ORDER

Re: **Robert A Porada v Tina M Porada**
Docket No. **297009**
L.C. No. **07-002939-DM**

David H. Sawyer, Chief Judge Pro Tem, acting under MCR 7.203(F)(1), orders:

The claim of appeal is **DISMISSED** for lack of jurisdiction because the March 5, 2010 order denying appellant's motion to change the domicile of the parties' minor child is not appealable of right. MCR 7.202(6)(a); MCR 7.203(A). The order does not constitute a postjudgment order affecting the *custody* of the children under MCR 7.202(6)(a)(iii). Notably, the present case differs from *Thurston v Escamilla*, 469 Mich 1009; 677 NW2d 28 (2004), in which the Michigan Supreme Court held that a postjudgment order granting a motion to change the domicile of minor children to another state constituted an order affecting the custody of a minor. Initially, the present case involves an order denying a motion to change domicile, as opposed to an order granting a motion to change domicile. Further, appellant's motion to change the domicile of the minor child in the present case cannot be considered a motion to change his *custody* because he was already in appellant's sole physical custody. Thus, whether appellant's motion regarding domicile was granted or denied, the custody of the minor child would not have been changed.

At this time, appellant may seek to appeal the March 5, 2010 order only by filing a delayed application for leave to appeal under MCR 7.205(F).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 15 2010
Date

Sandra Schultz Mengel
Chief Clerk